

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

OCTOBER TERM, 1904.

No. 1475

No. 19, SPECIAL CALENDAR.

JOHN BARNES, PLAINTIFF IN ERROR,

vs.

THE DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

JOHN BARNES, Plaintiff in Error, }
vs. } No. 1475.
THE DISTRICT OF COLUMBIA. }

a In the Police Court of the District of Columbia, August Term,
1904.

DISTRICT OF COLUMBIA }
vs. } No. 259,017. Information for Violation of
JOHN BARNES. } Police Regulations.

Be it remembered, that in the police court of the District of Columbia, at the city of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit :

1 (Information.)

In the Police Court of the District of Columbia, August Term,
A. D. 1904.

THE DISTRICT OF COLUMBIA, ss :

Andrew B. Duvall, Esq., corporation counsel, by James L. Pugh, Jr., Esq., assistant corporation counsel, who, for the District of Columbia, prosecutes in this behalf in his proper person, comes here into court, and causes the court to be informed and complains that John Barnes, late of the District of Columbia aforesaid, on the 2nd day of September, in the year A. D. nineteen hundred and four, in the District of Columbia aforesaid, and in the city of Washington, on 12th street, northwest, being then and there the driver of a certain licensed public vehicle, engaged at a certain hotel, did refuse and neglect to place said vehicle while waiting in a certain location designated by a member of the Metropolitan police force on duty at said place ; contrary to and in violation of the police regulations of the District of Columbia, and constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
Corporation Counsel,
By J. L. PUGH, JR.,
Assistant Corporation Counsel.

Personally appeared J. A. Boyce this 3rd day of September A. D. 1904 and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

[Seal Police Court of District of Columbia.]

[SEAL.]

JOSEPH HARPER,
*Deputy Clerk of the Police Court of the
District of Columbia.*

2

(Motion to Quash Information.)

In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA	}	No. 259,017.
vs.		
JOHN BARNES.		

Now comes the defendant and moves the court to quash the information filed in the above entitled cause on the following grounds:

1. The regulation is null and void the Commissioners having no power to enact the same.
2. The regulation is unreasonable.
3. The regulation is vague, uncertain and of no effect.
4. The information charges no offense.

D. W. BAKER.

3

In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA	}	No. 259,017.
vs.		
JOHN BARNES.		

Be it remembered, at the trial of this cause, which came on for hearing on the seventh day of September, A. D. 1904, before the presiding justice, the defendant moved to quash the information filed on the grounds set out in the motion to quash, but the court held that it would not at this time place a construction upon the ordinance upon which the information was based, in view of the fact that counsel intimated that he was to ask the Court of Appeals to pass on the question involved in the case at bar, and overruled said motion to quash, to which ruling of the court counsel for the defendant duly excepted on the ground that not only was the said ordinance null and void for the reasons set up in the motion to quash, but on the further ground that the action of the court in holding that he had not any right to construe said ordinance was virtually a refusal to hear the question presented by said motion,

and said exception was duly noted by the court on its minutes, and proper notice thereof was given on the part of the defendant, of an intention to apply to the Court of Appeals for a writ of error.

And thereupon, the defendant pleaded "not guilty," and the District proved that on Friday evening, at a quarter of six, the defendant, driving a public vehicle, drove up in front of the Raleigh
4 hotel, and at seven o'clock, he was asked if he had a job and he replied that he had; that he was then ordered by the officer to stand across the street, the officer giving his reason for such order, "the complaints from the management of the hotel, from hackmen in general, and defendant in particular." Defendant thereupon refused to obey said order. The defendant was standing on Twelfth street opposite the hotel on the east side where were also standing two hotel carriages which were not required to move; those carriages were there waiting for guests in just the same manner as the defendant's carriage; that defendant was not disorderly, was not standing in the way of the hotel entrance, was not obstructing the use of the streets, and was standing there merely where the hotel carriages were standing, and that the policeman was attempting to enforce the regulations against him, which could not be enforced against the hotel carriages; that defendant and the hotel carriages were practically both doing the same kind of business, and that the police officer ordered one away and not the other; and here the District rested.

Thereupon counsel for the defendant moved the court to instruct itself as matter of law on the facts of the case, that the action of the officer was unreasonable, unjust and unlawful discrimination against the defendant, and that in attempting to enforce the ordinance he did so in an unreasonable, unlawful and unconstitutional way, and that the Commissioners of the District of Columbia had no authority under the powers vested in them, to give to a police officer the power mentioned in the regulation; but the court overruled said motion, on the ground that the only question before him was whether or not defendant refused to obey the order of the officer, as provided in the regulation, to which ruling counsel for the defendant

5 excepted, which said exception, together with the other exceptions stated in this bill of exceptions, was duly noted at the time the same was taken, and notice thereof given of an intention to apply to the Court of Appeals for a writ of error, all of which said exceptions are signed this 8th day of September, A. D. 1904, *nunc pro tunc*.

LEWIS I. O'NEAL,
Acting Judge Police Court.

[Endorsed:] D. of C. vs. John Barnes. Bill of exceptions. Copy.

(Copy of Docket Entries.)

In the Police Court of the District of Columbia, August Term,
1904.

DISTRICT OF COLUMBIA	}	No. 259,017. Information for Violation of Police Regulations.
vs. JOHN BARNES.		

Sept. 3, 1904.—Motion to quash information filed. Continued to
Sept. 7, 1904.

Sept. 7, 1904.—Motion to quash information argued and over-
ruled.

Defendant arraigned Wednesday, September 7, 1904. Plea: Not
guilty. Judgment: Guilty. Sentence: To pay a fine of five dol-
lars, and, in default, to be committed to the workhouse for the term
of fifteen days.

Exceptions taken to the rulings of the court on matters of law
and notice given by the defendant at the time of the several rulings
in open court, of his intention to apply to a justice of the Court of
Appeals of the District of Columbia for a writ of error.

Recognizance in the sum of twenty dollars entered into on writ of
error to the Court of Appeals of the District of Columbia upon the
condition that in the event of the denial of the application for a
writ of error, the defendant will, within five days next after the ex-
piration of ten days, appear in the police court and abide by and
perform its judgment, and that in the event of the granting of such
writ of error, the defendant will appear in the Court of Appeals of
the District of Columbia and abide by and perform its judgment in
the premises.

LEWIS C. KENGLA, *Surety.*

Sept. 8, 1904.—Bill of exceptions filed, settled and signed.

Sept. 14, 1904.—Writ of error received from the Court of Appeals
of the District of Columbia.

In the Police Court of the District of Columbia.

UNITED STATES OF AMERICA,	}	ss :
District of Columbia,		

I, Joseph Y. Potts, clerk of the police court of the District of Co-
lumbia, do hereby certify that the foregoing pages, numbered from
1 to 6 inclusive, *to be* true copies of originals in cause No. 259,017
wherein The District of Columbia is plaintiff and John Barnes de-
fendant, as the same remain upon the files and records of said court.

In testimony whereof I hereunto subscribe my name and affix

the seal of said court, — the city of Washington, in said District, this 23rd day September, A. D. 1904.

[Seal Police Court of District of Columbia.]

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

8 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable Lewis I. O'Neal, acting judge of the police court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said police court, before you, between The District of Columbia, plaintiff, and John Barnes, defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Richard H. Alvey, Chief Justice of the said Court of Appeals, the 14th day of September, in the year of our Lord one thousand nine hundred and four.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by

R. H. ALVEY,

*Chief Justice of the Court of Appeals of
the District of Columbia.*

Endorsed on cover: District of Columbia police court. No. 1475. John Barnes, plaintiff in error, vs. The District of Columbia. Court of Appeals, District of Columbia. Filed Sep. 23, 1904. Henry W. Hodges, clerk.